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Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.: 10/711,457
Filed: September 20, 2004
Group Art Unit: 3612
Examiner: Gregory A. Blankenship
Applicants: Emerling et al.
Title: **MOLDED AUTOMOTIVE VISOR**
Attorney Docket: MASLIAC-51
Confirmation No.: 5456

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Commissioner for Patents
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Sir:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicants request review of the August 28, 2007 rejections in the above-identified application (wherein the claims have been twice rejected). No amendments are being filed with this request, and it is being filed concurrently with a Notice of Appeal. The review is requested for the reasons set out hereinbelow.

REMARKS/ARGUMENTS FOR REVIEW

Claims 1-18 are pending and stand rejected under 35 U.S.C. 103(a). Review is requested for independent claims 1, 10, and 16, and dependent claims 8, 9, 14, 15, 17, and 18. Applicants reserve comments on the remaining dependent claims and/or additional arguments if the appeal proceeds.

Independent claim 1 is directed to an automotive visor comprising “a polymeric cover layer integrally formed in place onto said outer surface of said core member.” Independent claims 10 and 16 are directed to methods of forming an automotive visor, comprising “integrally forming a cover layer in place on an outer surface of the visor core.” Claims 1, 10, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mills et al. (U.S. Patent No. 6,840,561) in view of Hier et al. (U.S. Pub. No. 2003/0184064). Mills '561 discloses an automotive visor having a foldable core that captures the edges of fabric cover material. (See Applicants' Response dated July 12, 2007, pp. 2-3.) Hier '064 is directed to an automotive instrument panel having a seamless door integrated into the instrument panel for deploying an airbag. (Id.)

Applicants request that the rejections of claims 1, 10, and 16 be withdrawn because Mills '561 fails to disclose each and every element recited in these claims, and the Examiner fails to establish some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify Mills '561 or to combine Mills '561 and Hier '064. (See Applicants' Response dated July 12, 2007, page 3, last paragraph.)

It is undisputed that Mills '561 does not disclose each and every claimed element. (See Office Action mailed August 28, 2007, paragraph 5, line 5.) To cure this

deficiency, the Examiner alleges that it would have been obvious to replace the fabric cover of Mills '561 with a polymeric cover, in view of Hier '064, to provide a seamless cover. (Office Action mailed August 28, 2007, p. 2.) In response to Applicants' argument that the alleged combination of Mills '561 and Hier '064 would not result in a seamless cover (Response dated July 12, 2007, p. 3, last paragraph.), the Examiner argues that a polymeric cover could be molded onto the core of Mills '561 after the core is folded. (Office Action mailed August 28, 2007, p. 5.)

The Examiner's rationale is, however, contrary to the teaching of Mills '561. Specifically, Mills '561 teaches a visor core having a clamshell configuration so that cover material may be wrapped over the core, and then the core may be folded to secure the edges of the cover material between the core halves. Accordingly, persons skilled in the art would not have been motivated to first fold the core, then replace the fabric cover material of Mills '561 with a polymeric cover to obtain a seamless cover, as alleged by the Examiner. In rejecting claims 1, 10, and 16 based on Mills '561 in view of Hier '064, the Examiner takes a mental leap that is contrary to the teaching of Mills '561 and is not supported by the references of record. For at least these reasons, Applicants assert that the Examiner has failed to present a *prima facie* case of obviousness in rejecting claims 1, 10, and 16, and respectfully request that the rejections of claims 1, 10, and 16 be withdrawn.

Rejections of claims 8, 9, 14, 15, 17, and 18

Claims 8, 9, 14, 15, 17, and 18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over the combination of Mills '561 and Hier '064 in further view of U.S.

Patent No. 5,720,509 to Binnish. Each of these claims is directed to a visor having an accessory affixed to the core member and integrally molded with the cover layer, or a method of making a visor including integrally molding an accessory with the cover layer. In addition to the legal deficiencies discussed above with respect to claims 1, 10, and 16, the rejections of claim 8, 9, 14, 15, 17, and 18 are clearly legally deficient because the fabric cover and accessory of Binnish '509 are placed into a mold, and then foam material is injected into the center of the fabric so that the foam expands to form lips over a mirror or a door opener. (Response dated July 12, 2007, p. 5.) Thus, Binnish '509 fails to disclose an integrally molded cover that affixes accessories to a core member of a visor, as recited in claims 8, 9, 14, 15, 17, and 18. For at least these additional reasons, Applicants respectfully request that the rejections of claims 8, 9, 14, 15, 17, and 18 be withdrawn.

As evidenced above, there are clear legal deficiencies in the rejections. A *prima facie* case of obviousness has not been established. Hence, Applicants respectfully assert that the rejections are plainly in error and should be withdrawn.

Respectfully submitted,
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